IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No.9494 of 2007 (O&M)
Date of decision : 16.8.2007

M/s Gurmeet Singh and Company

....Petitioner through
Mr.M.L.Saggar, Senior
Advocate, assisted by
Mr. Alok Jain,Advocate

Versus

State of Punjab and another

... Respondents through
Mr. H.S.Mattewal,
Advocate General,
Punjab, assisted by
Mr.Chetan Dayal
Advocate

CORAM : HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

...

Vijender Jain, Chief Justice (Oral)

C.M.No.13223 of 2007

C.M. allowed. Re-joinder is taken on record.

C.W.P.No.9494 of 2007

The petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India impugning the decision of the respondents by which they have called for revised tenders from the petitioner and other similarly situated persons who were participants in the process of tendering.

The respondents invited pre-qualification tender

enquiries for the "Construction of balance work comprising of Part of Head & Tail Race Channel, Power House building, trash rack, intake, Draft tube, Intake & Draft tube gates & all allied works of Mukerian Hydel Project Stage-II (Part-II) viz. Power House Portion". Initially, the respondents received a poor response forcing them to issue a corrigendum relaxing certain conditions as a result of which five enquiries were received out of which ultimately three persons participated, including the petitioner.

In the bids which were opened on 22.2.2007 in the presence of the representatives of the participants, the petitioner gave a bid of Rs.28.77 crores as against the bids of other participants, namely M/s Sadhu Singh and Co. and M/s Shring Construction Pvt. Ltd. for Rs.30.57 crores and 33.03 crores, respectively. According to the estimated cost calculated by the respondent-Board, the cost of work ought not to have increased Rs.24.39 crores and hence dissatisfied with the response they decided to invite revised bids from the petitioner and other two participants after making it known to them that the bids were exorbitant. The petitioner participated as did the other two participants and on 20.6.2007 at noon time the bids were opened and the following bids were received from the petitioner and other participant companies:-

1. M/s Gurmeet Singh & Company Rs.28.68 crores (Petitioner)(L-3)
2. M/s Sadhu Singh & Co. Rs.28.06 crores (L-2)
3. M/s Shring Construction Pvt.Ltd.Rs.27.94 crores (L-1)

The decision to invite revised bids was taken on 11.6.2007. The petitioner, in the meantime, filed the present writ

petition on 19.6.2007, which came up for hearing on 20.6.2007 and the petitioner was given the opportunity to participate in the bids. But it was directed that the bids shall not be finalised.

It was the contention of learned counsel for the petitioner that when the bids were opened in the first instance, the petitioner being the lowest bidder should have been called for negotiation and the revised bids could not have been invited. According to him, he has been seriously prejudiced as he being the lowest tenderer ought to have been given the first option and that not having been done his bid stood exposed putting him at disadvantageous position qua the other participants.

The aforesaid contentions were stoutly refuted by the counsel for the respondents who stated that the initial bids being exorbitantly high prompted the respondents to take this decision in self interest, as they wanted to save the public money, and according to them, the estimate should not have exceeded to Rs.24.39 crores. It was further contended that the revised bids have resulted in the scaling down of the bids by the respective parties as a result of which substantial amount has been saved.

We have considered the matter in the light of the above and are of the opinion that no prejudice has been caused to the petitioner. For one, he has participated in the process of revised bidding as did the others. The bids made earlier by the respective parties were known to each other in the subsequent bids and therefore it cannot be said that any one particular party stood at an advantageous position qua the other. All were equally situated and the

petitioner having fought and lost cannot now make a grievance that the initial bid given by him created any right in his favour to be invited for negotiations.

We have also noticed the contention of the learned counsel for the respondents that re-initiation of the process of inviting tenders would have simply delayed the matter which would have further added to the escalation in costs. The concern was not entirely misplaced and the petitioner therefore cannot make any grouse of the revised bidding wherein he had participated freely along with other companies. If at all somebody could have raised a grouse, it could have been a person who was deprived from participating in the tender process and not the petitioner.

Having regard to the aforesaid, the writ petition is totally devoid of any merit and is dismissed as such.

(VIJENDER JAIN)
CHIEF JUSTICE

16.8.2007

(MAHESH GROVER)
JUDGE

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